

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RICHARD R. CAPOZZA AND ANN M.
CAPOZZA,

Plaintiffs,

-vs-

Civil Action No.: 5:20-CV-0406 (TJM/TWD)

THE AUTOMOBILE INSURANCE
COMPANY OF HARTFORD, CONNECTICUT,

Defendant.

NOTICE OF REMOVAL

COMES NOW Defendant, The Automobile Insurance Company of Hartford, Connecticut (“Travelers”), by and through its attorneys, Keane & Associates, and hereby invokes this Court’s jurisdiction under the provisions of 28 USC 1332(a), 1441, and 1446, stating the following grounds in support of the removal of the above-captioned case from the Supreme Court, State of New York, County of Onondaga to the United States District Court for the Northern District of New York:

1. The above-captioned action was commenced by Plaintiffs, Richard R. Capozza and Ann M. Capozza (“Plaintiffs”), in New York State Supreme Court, County of Onondaga, by the filing of a Summons and Complaint on or about January 31, 2020. The Onondaga County Clerk’s Office assigned this action Index No. 001160/2020 (the “State Action”).
2. A copy of Plaintiffs’ Summons and Complaint is hereto annexed as **Exhibit A**.
3. In the State Action, Plaintiffs assert claims for breach of contract and declaratory judgment against Travelers arising out of an alleged water loss and damages at the Plaintiffs’ property, located at 2302 East Lake Road, Skaneateles, New York 13152.

5. In the State Action, Plaintiffs seek (1) monetary payments arising out of the alleged water loss and damage and (2) a declaration that Plaintiffs have performed its obligations under the insurance policy at issue and that Travelers is obligated to provide coverage under the same policy.

6. Removal of this action from the Supreme Court, State of New York, County of Onondaga, to the United States District Court for the Northern District of New York is proper under 28 U.S.C. Section 1441(a). The Federal Court would have had original jurisdiction of this action based upon diversity of citizenship, pursuant to 28 U.S.C. Section 1332, had this action been commenced in Federal Court in the first instance.

7. Upon information and belief, Plaintiffs are residents of the County of Onondaga, State of New York and are therefore citizens of the State of New York.

8. Defendant Travelers is a Connecticut corporation with its principal office for the transaction of business in Hartford, Connecticut and is therefore a citizen of the State of Connecticut.

9. In the State Action, Plaintiffs seek approximately \$128,450.00 in insurance proceeds allegedly due and includes claims for \$117,000.00 building damage, \$10,000.00 for contents damage, and \$1,450.00 for payment of an environmental hygienist.

10. Upon information and belief, the amount in controversy exceeds the sum of value of \$75,000.00, exclusive of interest and costs, and is between citizens of different states.

11. Pursuant to 28 U.S.C. Section 1332(a)(1), the District Courts shall have original jurisdiction of this proceeding.

12. This Notice of Removal is timely because the Complaint in this action was delivered to the petitioning Defendant on or about March 9, 2020, and this notice was filed within

thirty (30) days of receipt of that pleading and within one year of the date upon which this action is commenced.

13. Travelers submits this Notice of Removal without waiving any defenses to Plaintiffs' claims or conceding that Plaintiffs have pled any claims upon which relief may be granted. Further, by filing this Notice of Removal, Travelers does not waive any defenses with respect to adequacy or effectiveness of service of process.

14. Travelers submits the Affidavit of Meg R. Reid, counsel for Travelers, concerning the inability to file the Notice of Notice of Removal with the Clerk of the Supreme Court of the State of New York, County of Onondaga. The affidavit of Meg R. Reid is annexed hereto as **Exhibit B**.

15. Simultaneous with the filing of this Notice of Removal, Travelers will serve Plaintiffs with the Notice of Notice of Removal.

WHEREFORE, Defendant The Automobile Insurance Company of Hartford, Connecticut respectfully requests that the State Action be removed from the Supreme Court, State of New York, County of Onondaga, to the United States District Court for the Northern District of New York.

Dated: April 6, 2020

KEANE & ASSOCIATES

By: /s/Meg R. Reid
Meg R. Reid
Attorneys for Defendant
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CERTIFICATION OF SERVICE

I hereby certified that on April 6, 2020 a copy of the foregoing **Notice of Removal** was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, the Northern District's Local Rules, and the Northern District's Rules on Electronic Service upon the following parties and participants via regular mail and email:

Martin A. Lynn, Esq.
Lynn Law Firm, LLP
750 M&T Bank Building
101 South Salina Street
Syracuse, NY 13202

/s/Meg R. Reid
Meg R. Reid